REMARKS

In this Amendment, Applicant has amended Claims 1 – 5, 8, 10, 11, 14, 15, 18 – 26 and 28. Claims 1 – 5, 8, 10, 11, 14, 15, 18 – 26 and 28 have been amended to overcome the rejection and further specify the embodiments of the present invention. It is respectfully submitted that no new matter has been introduced by the amended claims. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1 – 28 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention.

It is respectfully submitted that in view of presently claimed invention, the rejection has been overcome by amendment as follows:

1. The term "use of" recited in Claims 1 – 4, 8, 10, 11, 14, 15 and 18 – 25 has been deleted. Claims 1 – 4, 8, 10, 11, 14, 15 and 18 – 25 have been rewritten into proper method claims reciting the necessary step(s);

2. The word "the" in front of "alkali metals" in Claims 1 and 5 has been removed to overcome the rejection for lacking antecedent basis;

3. The phrase "such as" has been deleted in Claims 1 and 26 to overcome the indefinite rejection;

4. Claim 26 has been rewritten into proper method claims reciting the necessary steps;

5. The term "the food" has been changed to "the foods" in Claim 26 to be consistent with its preamble;

6. The term "the cut food product" has been changed to "the foods" to overcome the rejection for lacking antecedent basis; and

7. Claim 26 has been rewritten to independent form by deleting the dependency on Claim 5.

Therefore, the indefinite rejection is overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 112 is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 102:

Claims 1, 2, 4 – 6, 8, 9, 18, 19, 26 and 27 have been rejected under 35 U.S.C. § 102 (b) as allegedly being anticipated by Cipolletti et al. (Journal of Food Science), hereinafter Cipolletti.

Applicant traverses the rejection and respectfully submits that the present-claimed invention is not anticipated by the cited reference. More specifically, Claim 1 has been amended to the use of "cooled alcohol, acetic acid esters or acetone, mixed with a salt selected from the group consisting of alkali metals, beryllium group and alkaline-earth metals" for freezing or superficial freezing of foods. The coolant has also been restricted to the a.m. group of liquids.

Cipolletti fails to teach the use of "cooled alcohol, acetic acid esters or acetone, mixed with a salt selected from the group consisting of alkali metals, beryllium group and alkaline-earth metals" for freezing or superficial freezing of foods as presently claimed. Claim 26 is not anticipated by Cipolletti because Cipolletti fails to teach superficial freezing. It is respectfully submitted that "superficial freezing" is especially useful in a process for cutting food because only the surface product is frozen, which stabilizes the product while it is cut so that it vibrates less and/or is less deformed while being cut.

Therefore, the newly presented claims are not anticipated by Cipolletti and the rejection under 35 U.S.C. § 102 (b) has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 102 (b) is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103:

Claims 3 and 7 have been rejected under 35 U.S.C. § 103, as allegedly being obvious and unpatentable over Cipolletti in view of Nambu (US 4,925,603). Claims 10 – 13 have been rejected under 35 U.S.C. § 103, as allegedly being obvious and unpatentable over Cipolletti in view of Orre (EU 0290666 B1), hereinafter Orre. Claims 14 – 17 and 20 – 25 have been rejected under 35 U.S.C. § 103, as allegedly being obvious and unpatentable over Cipolletti in view of Borup et al (WO 99/21429), hereinafter Borup. Finally, Claim 28 has been rejected under 35 U.S.C. § 103, as allegedly being obvious and unpatentable over Cipolletti in view of Sundara (US 6,080,440).

Applicant traverses the rejection. It is respectfully submitted that in view of the presently claimed invention, the rejection has been overcome. More specifically, Claims 1 and 26 have been amended to the use of "cooled alcohol, acetic acid esters or acetone, mixed with a salt selected from the group consisting of alkali metals, beryllium group and alkaline-earth metals" for freezing or superficial freezing of foods. By their ultimate dependency on Claims 1 and 26, Claims 3, 7, 10 – 17, 20 – 25 and 28 also include these limitations.

It is respectfully submitted that none of the cited referenced -- Cipolletti, Nambu, Orre, Borup, Sundara – alone or in combination teaches the use of "cooled alcohol, acetic acid esters or acetone, mixed with a salt selected from the group consisting of alkali metals, beryllium group and alkaline-earth metals" for freezing or superficial freezing of foods. Nambu discloses the use of acetone as a coolant for gels which are used, for example, as ice pillows. However, very special restrictions have to be placed for the direct contact between a coolant and foods, so that the person skilled in the art would not combine, for example, Cipolletti with Nambu. In addition, as recognized by the Examiner, Cipolletti failed to disclose or teach the use of acetone as a coolant for cooling foods. Orre and Borrup only disclose the conventional expedient of freezing foodstuffs with the ranges of ingredients outside of the scope of the claimed ranges. In addition, Saundara only discloses conventional packaging frozen food product into suitable plastic

containers under vacuum. There is no motivation to combine with Cipolletti or modify Cipolletti to achieve the invention as currently claimed.

Applicant respectfully submits that the superficial freezing of food is not disclosed or taught anywhere in the cited referenced -- Cipolletti, Nambu, Orre, Borup, Sundara – alone or in combination. The "superficial freezing" as pointed above has many advantages that a person of ordinary of skill in the art would not have been expected at the time the present invention was made.

In summary, nowhere in prior art has suggestion or incentive to modify Cipolletti or combine Cipolletti with Nambu, Orre, Borup, Sundara to achieve the invention as presently claimed. Even if they are combined, they do not disclose or teach the invention as presently claimed. One of ordinary skilled in the art would not discern the present invention at the time of its invention. Therefore, the rejection under 35 U.S.C. § 103 has been overcome. Accordingly, withdrawal of the rejection under 35 U.S.C. § 103 is respectfully requested.

TRANSLATION OF IDS DOCUMENTS:

Examiner has requested Applicant to submit English translation for non-English language documents AM, AN and AR cited in the Information Disclosure Statement ("IDS") filed on January 30, 2002.

Applicant respectfully submits that document AL (EP 0290666B1) in English is the equivalent application for document AN (DE 3785193T2). In addition, it is respectfully submitted that Applicant has properly complied with the requirement for submission of IDS. More specifically, Applicant properly pointed out the relevancy of the documents AM and AR in the IDS filed on January 30, 2002, in which the English translation of the German Patent and Trademark Office official letter was provided and the relevancy of AM and AR were provided in the categories of "Y" and "A", respectively. In addition, the preparation for the translation of documents AM and AR is

currently underway. If Examiner still deem it is necessary to provide the English translation for these documents, Applicant will submit a proper Information Disclosure Statement for review and consideration by the Examiner as soon as the translation is completed.

Having overcome all out standing grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By_____
John C. Holman
Registration No. 22,769

Date: May 20, 2004
(202) 638-6666
400 Seventh Street, N.W.
Washington, D.C. 20004
Atty. Dkt. No.: P67198US0